

CHAPTER 7:

REVIEW OF JUVENILE DISPOSITIONS

**Juvenile Probation Officer and Caseworker
Self-Instructional Manual**

JUVENILE PROBATION OFFICER AND CASEWORKER SELF-INSTRUCTIONAL MANUAL
CHAPTER 7: REVIEW OF JUVENILE DISPOSITIONS

Periodic Dispositional Review Hearings

The court is required to hold periodic hearings to review dispositional orders in delinquency cases, and may include the probation officer or community service worker. The victim has a right to make an oral and/or written statement. At a review hearing, the court may modify or amend the dispositional order or treatment plan. MCR 3.945(A)(1).

Review Hearing Before Moving a Juvenile to a More Physically Restrictive Placement

The court is required to conduct a review hearing before moving a juvenile to a more physically restrictive placement unless the juvenile and his or her parent consent in writing filed with the court. MCR 3.945(A)(2).

Dispositional Review Hearings for Juveniles Placed in Out-of-Home Care

If a child is placed in out-of-home care, the court must hold review hearings at least once every 182 days.

Information That Must Be Reviewed

- agency reports;
- any information from the child's parent, guardian, custodian, foster parent, child caring institution, relative with whom a child is placed, attorney, LGAL, GAL; or
- any other evidence offered at the hearing.



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At a review hearing, the court must review, on the record, all of the following:

- (a) Compliance with the case service plan . . . including compliance by the child and the child's parent, guardian, custodian, or "nonparent adult";
- (b) Compliance with the case service plan with respect to parenting time with the child;
- (c) The extent to which the parent complied with each provision of the case service plan, prior court orders, and an agreement between the parent and the agency;
- (d) Likely harm to the child if the child continues to be separated from the child's parent, guardian, or custodian; and
- (e) Likely harm to the child if the child is returned to the child's parent, guardian, or custodian. MCL 712A.19(6)(a)-(e).

After reviewing the case service plan, the court must decide the extent of the progress made toward alleviating or mitigating conditions that caused the child to be, and to remain, in foster care. MCL 712A.19(7). The court may modify any part of the case service plan. MCL 712A.19(7)(a)-(b).



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Required Decisions

The court must determine the continuing necessity and appropriateness of the placement. The court shall order:

- (1) the return of the child to the custody of the parent;
- (2) continue the dispositional order, modify the dispositional order; or
- (3) enter a new dispositional order. MCL 712A.19(8).

Progress Reports Every Six Months for Juveniles Committed to Private Institutions

When a placement is made to a private institution or agency under MCL 712A.18(1)(d), the court must require that a progress report be made at least every six months. MCL 712A.24.

Commitment Review Hearings to Extend Jurisdiction Until Age 21 for Juveniles Committed to Public Institutions

If the family division has exercised jurisdiction over the juvenile for a criminal offense or status offense, the court shall retain jurisdiction over the juvenile until age 19, unless the juvenile is released earlier by court order, or unless the court has extended jurisdiction until age 21 for certain serious offenses. MCL 712A.2a(1) and (2); MCL 712A.18c(4).



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Offenses Allowing Extension of Jurisdiction Until Age 21

MCL 712A.2a(2) and MCL 712A.18d(1) provide that the court may extend jurisdiction until age 21 if the juvenile is committed to a public institution under MCL 712A.18(1)(e) for an offense that would be a violation or attempted violation of any of the following:

- burning a dwelling house, MCL 750.72;
- assault with intent to murder, MCL 750.83;
- assault with intent to do great bodily harm less than murder, MCL 750.84;
- assault with intent to maim, MCL 750.86;
- assault with intent to rob while unarmed, MCL 750.88;
- assault with intent to rob while armed, MCL 750.89;
- attempted murder, MCL 750.91;
- first-degree home invasion, MCL 750.110a(2);
- escape or attempted escape from a juvenile facility, MCL 750.186a;
- first-degree murder, MCL 750.316;
- second-degree murder, MCL 750.317;



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Offenses Allowing Extension of Jurisdiction Until Age 21 (*continued*)

MCL 712A.2a(2) and MCL 712A.18d(1) provide that the court may extend jurisdiction until age 21 if the juvenile is committed to a public institution under MCL 712A.18(1)(e) for an offense that would be a violation or attempted violation of any of the following:

- kidnapping, MCL 750.349;
- first-degree criminal sexual conduct, MCL 750.520b;
- second-degree criminal sexual conduct, MCL 750.520c;
- third-degree criminal sexual conduct, MCL 750.520d;
- assault with intent to commit criminal sexual conduct, MCL 750.520g;
- armed robbery, MCL 750.529;
- unarmed robbery, MCL 750.530;
- bank, safe, or vault robbery, MCL 750.531;
- carjacking, MCL 750.529a; or
- possession of, or manufacture, delivery, or possession with intent to manufacture or deliver, 650 grams or more of any Schedule 1 or 2 narcotic or cocaine.

MCL 333.7401(2)(a)(i); MCL 333.7403(2)(a)(i).



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Time Requirements for Hearings

“Unless adjourned for good cause a commitment review hearing must be held as near as possible to, but before, the juvenile’s nineteenth birthday.” MCR 3.945(B)(1)(a).

Right to Counsel at Hearings

The court must appoint an attorney to represent the juvenile at the required review hearing unless legal counsel has been retained. MCR 3.945(B)(2); MCL 712A.18d(4).

Factors to Consider at Hearings

The purpose of the review hearing is to determine whether the juvenile has been rehabilitated or still presents a serious risk to public safety. If the court determines the juvenile has not been rehabilitated or that the juvenile presents a serious risk to public safety, jurisdiction shall be continued until the juvenile reaches age 21. MCL 712A.18d(1).

Burden of Proof at Hearings

The juvenile has the burden of proving, by a preponderance of the evidence, that he or she has been rehabilitated and does not present a serious risk to public safety. MCR 3.945(B)(4); MCL 712A.18d(2).



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Evidence and Reports at Hearings

MCR 3.945(B)(3) provides that the Michigan Rules of Evidence (MRE), other than rules governing privileges, do not apply.

The institution shall prepare commitment reports. MCL 803.225; MCL 712A.18d(5). These reports must contain a description of:

- (a) The services and programs currently being utilized by, or offered to, the juvenile and the juvenile's participation in those services and programs;
- (b) Where the juvenile currently resides and the juvenile's behavior in his or her current placement;
- (c) The juvenile's efforts toward rehabilitation; and
- (d) Recommendations for the juvenile's release or continued custody.

Finding of Contempt: Incarceration

The court may impose contempt of court upon any person who willfully violates, neglects, or refuses to obey and perform any order. MCL 712A.26. This could include incarceration for a finding of contempt by a juvenile age 17 or older.



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Subsequent Review Hearings

If the court extends jurisdiction over the juvenile until the juvenile turns age 21, and the juvenile is placed outside the home, the court must hold a dispositional review hearing every 182 days. MCR 3.945(C)(1).

If the institution, agency, or facility believes that the juvenile has been rehabilitated and that the juvenile does not present a serious risk to public safety, they may petition the court to conduct a review hearing at any time before the juvenile becomes 21 years of age. MCR 3.945(C)(2).

Release of Juvenile at Age 21

If the court continues jurisdiction over the juvenile, the juvenile shall be automatically discharged upon reaching the age of 21. MCL 712A.18d(1); MCL 803.307(1)(a) and (2).

REQUIREMENTS OF THE CRIME VICTIM'S RIGHTS ACT

Notice of Juvenile's Transfer From One Facility to Another

Upon written request by the victim in a juvenile delinquency proceeding, the agency to which a juvenile has been committed must make a "good-faith effort" to notify the victim before the juvenile is transferred from one juvenile facility to another. MCL 780.798(1)(b).

If the agency to which a juvenile has been committed is unsuccessful in notifying the victim before the transfer, it must notify the victim as soon as possible after the transfer occurs. MCL 780.798(2).



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Notice of Review Hearings and the Right to Make a Statement

After a juvenile has been committed, the crime victim is entitled to request notification of review hearings. If asked, the prosecuting attorney must give the victim notice. The victim has the right to make an oral and/or written statement at the hearing.

Notice of Juvenile's Dismissal From Court Jurisdiction or Discharge From Commitment to Juvenile Agency

In juvenile delinquency and designated cases, if the victim requests in writing, the court or the agency to which a juvenile was committed must provide the victim notice of the juvenile's dismissal or discharge. MCL 780.798(1)(a).

The department of corrections, department of human services, county sheriff or prosecuting attorney must also provide the victim with notice if the case is resolved in any way that is not an acquittal or unconditional dismissal. MCL 780.752a; MCL 780.781a.

Early Termination of Probation of Juvenile; Notice to Victim

If a juvenile is sentenced to probation with a condition for the protection of the victim and if requested by the victim, the court shall notify the victim by mail if the court orders that the probation be terminated earlier than previously ordered. MCL 780.768b; MCL 780.795a.

